

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 34

[Docket No. 27686, Amdt. No. 34-1]

RIN 2120-AE55

Correction to References in the Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This document amends a specific reference in a regulation to provide that the preproduction certification compliance program described in Appendix 6 to International Civil Aviation Organization Annex 16 is an acceptable means of compliance with gaseous emission standards. This document also amends specific references to add the effective date of Volume II of Annex 16. This rule is intended to ensure that the regulations accurately reflect what was intended by the originally proposed rule.

EFFECTIVE DATE: July 31, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Edward McQueen, Research and Engineering Branch (AEE-110), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, telephone (202) 267-3560.

SUPPLEMENTARY INFORMATION:**Background**

Section 232 of the Clean Air Act Amendments of 1970, (42 U.S.C. 7401 *et seq.*), requires the Federal Aviation Administration (FAA) to issue regulations that ensure compliance with all aircraft emission standards promulgated by the Environmental Protection Agency (EPA) under Section 231 of the Act. Those emission standards are prescribed in 40 CFR part 87. The FAA issued Special Federal Aviation Regulation (SFAR) Number 27 (38 FR 35427, December 28, 1973) to ensure compliance with the aircraft and aircraft engine emission standards and test procedures issued by the EPA in 40 CFR part 87.

In 1989, the FAA proposed to codify SFAR 27 as 14 CFR part 34 (53 FR 18530, May 23, 1988). The NPRM included proposed § 34.71, which stated that compliance with gaseous emission standards would be shown by comparing the pollutant levels with the

applicable emission standards. Proposed § 34.71 also stated that an acceptable means of compliance would be incorporated by reference in proposed § 34.4. Proposed § 34.4 referenced the preproduction program described in Appendix 6 to International Civil Aviation Organization (ICAO) Annex 16, "Environmental Protection, Volume II—Aircraft Engine Emissions, First Edition, June 1981, effective February 18, 1982," as an acceptable means of compliance with § 34.71.

In August of 1990, the proposal was adopted as part 34, "Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes," effective September 10, 1990 (55 FR 32856, August 10, 1990). Part 34 contains all of the applicable aircraft engine fuel venting and exhaust emission requirements of SFAR 27, and the test procedures specified under the regulations implementing the Clean Air Act. § 34.4 was not adopted as proposed, but was "reserved." The FAA had intended to, instead, specifically incorporate in Section 34.71 the reference to Appendix 6 of ICAO Annex 16; however, the reference to an acceptable means of compliance was inadvertently omitted. In addition, the final rule did not state the effective date of Volume II of ICAO Annex 16 in several other sections where this cite was referenced.

After part 34 was adopted, the FAA received several requests for clarification of the compliance standards stated in § 34.71; the FAA also received inquiries asking why Appendix 6 to Volume II of ICAO Annex 16 was omitted as an acceptable alternative to testing every engine. Members of the public stated that §§ 34.4 and 34.71 were different from those proposed in the NPRM. The FAA recognizes that the final rule, as adopted, caused the confusion. In responding to the inquiries, the FAA has stated that the intent of the 1989 proposal was to accept Appendix 6 as an alternative means of compliance. Accordingly, the FAA has determined that § 34.71 should be amended to reflect the intent of the proposal.

Discussion of Comments

On April 13, 1994, the FAA published an NPRM (59 FR 17640) to revise § 34.71 or part 34. This proposal stated that Appendix 6 to ICAO Annex 16, "Environmental Protection, Volume II—Aircraft Engine Emissions, First Edition, June 1981, effective February 18, 1982," is an acceptable means of compliance with that section. In addition, it was proposed that §§ 34.64, 34.82, and 34.89

of part 34 would be revised to state that the effective date of Volume II of Annex 16 is February 18, 1982. No comments were received in the docket after a 60-day comment period.

Regulatory Evaluation Summary

This regulatory evaluation examines the potential costs and benefits of the proposed rule to amend part 34. Changes to Federal regulations are required to undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. With respect to this rule, the FAA has determined that it: (1) is not "a significant regulatory action" as defined in the Executive Order; (2) is not significant as defined in the Department of Transportation's Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial number of entities; and (4) will not constitute a barrier to international trade. Therefore, a full regulatory analysis, which includes the identification and evaluation of cost-reducing alternatives to this rule, has not been prepared. Instead, the agency has prepared a more concise analysis of this rule which is presented in the following paragraph.

There are no known costs associated with this final rule. The purpose of this rule is to correct an inadvertent omission from § 34.71. In that regulation, the FAA intended to but did not fully incorporate by reference Appendix 6 to ICAO Annex 16, Environmental Protection, Volume II—Aircraft Engine Emissions, First Edition, June 1981, effective February 18, 1982, in that regulation. Appendix 6 describes an acceptable alternative to testing every engine for compliance with gaseous emission standard. The benefit of this rule is that it will eliminate the confusion surrounding the omission of the reference, and it will clarify the intent of the regulation in part 34. This revision to part 34 will also eliminate the need for the public to call the FAA to find out whether Appendix 6 to ICAO Annex 16 is an acceptable means of compliance with § 34.71. This rule also revises §§ 34.64, 34.82, and 34.89 to clarify that the effective date of Volume II of Annex 16 is February 18, 1982.

International Trade Impact Assessment

The proposed rule represents a clarifying change and will not impose any costs on either U.S. or foreign operators. Therefore, a competitive trade disadvantage will not be incurred by either U.S. operators abroad or foreign operators in the United States.

Initial Regulatory Flexibility Determination

In accordance with the Regulatory Flexibility Act of 1980, the proposed rule will not have a significant economic impact on a substantial number of small entities. This is because the proposed rule is clarifying in nature and will not impose any costs.

Environmental Analysis

Section 232 of the Clean Air Act Amendments of 1970 mandates that the FAA issue regulations to ensure compliance with the EPA aircraft emissions standards. The EPA has performed all required environmental analyses prior to the issuance of those standards. Since this rule represents a clarifying correction and will not significantly affect the quality of the human environment, no further analyses is required.

Federalism Implications

The regulations herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

The FAA has determined that this rule: (1) is not a significant regulatory action under Executive Order 12866; (2) is not a significant rule under DOT Regulatory Policies and Procedures (44

FR 11034, February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 34

Air pollution control, Aircraft.

The Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 34 of the Federal Aviation Regulations as follows:

PART 34—FUEL VENTING AND EXHAUST EMISSION REQUIREMENTS FOR TURBINE ENGINE POWERED AIRPLANES

1. The authority citation for part 34 continues to read as follows:

Authority: 42 U.S.C. 1857f-10; 49 U.S.C. 106(g); 49 U.S.C. App. 1348(c), 1354(a), 1421, 1423.

2. Section 34.64 is amended by revising the first sentence to read as follows:

§ 34.64 Sampling and analytical procedures for measuring gaseous exhaust emissions.

The system and procedures for sampling and measurement of gaseous emissions shall be done in accordance with Appendices 3 and 5 to ICAO Annex 16, Environmental Protection, Volume II—Aircraft Engine Emissions, First Edition, June 1981, effective February 18, 1982. * * *

3. Section 34.71 is revised to read as follows:

§ 34.71 Compliance with gaseous emission standards.

Compliance with each gaseous emission standard by an aircraft engine shall be determined by comparing the pollutant level in grams/kilowatt/cycle or grams/kilowatt/cycle as calculated pursuant to § 34.64 with the applicable emission standard under this part. An acceptable alternative to testing every engine is described in Appendix 6 to ICAO Annex 16, Environmental

Protection, Volume II—Aircraft Engine Emissions, First Edition, June 1981, effective February 18, 1982. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This document can be obtained from the address listed in § 34.64. Other methods of demonstrating compliance may be approved by the Administrator with the concurrence of the Administrator of the EPA.

4. Section 34.82 is amended by revising the first sentence to read as follows:

§ 34.82 Sampling and analytical procedures for measuring smoke exhaust emissions.

The system and procedures for sampling and measurement of smoke emissions shall be done in accordance with Appendix 2 to ICAO Annex 16, Environmental Protection, Volume II—Aircraft Engine Emissions, First Edition, June 1981, effective February 18, 1982. * * *

5. Section 34.89 is amended by revising the third sentence and adding new fourth and fifth sentences to read as follows:

§ 34.89 Compliance with smoke emission standards.

* * * An acceptable alternative to testing every engine is described in Appendix 6 to ICAO Annex 16, Environmental Protection, Volume II—Aircraft Engine Emissions, First Edition, June 1981, effective February 18, 1982. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This document can be obtained from the address listed in § 34.64.

Issued in Washington, DC on June 22, 1995.

David R. Hinson,
Administrator.

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